HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION Nos. 8516 & 18141 of 2006

% 23-08-2007

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K.Shravan Kumar & others

…Petitioners

And

$ Rajendranagar Municipality, rep.by its Commissioner, Rajendranagar, R.R.District & others

…Respondents

! COUNSEL FOR PETITIONERS : Mr.Vedula Srinivas & K.Raghuveer Reddy

^ COUNSEL FOR RESPONDENTS: G.P. for Fisheries & Mr.Polisetti Radhakrishna, S.C. for Municipality.

< Gist:

> Head Note:

? CITATIONS:

-Nil-

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION Nos. 8516 & 18141 of 2006

Dated 23rd August 2007

Between:

K.Shravan Kumar & others

…Petitioners

and

Rajendranagar Municipality, rep.by its Commissioner, Rajendranagar, R.R.District & others

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HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION Nos. 8516 & 18141 of 2006

COMMON ORDER:

The common question that arises for consideration in these two writ petitions is, as to whether the Rajendranagar Municipality is entitled to, and under obligation to grant lease of fishing rights, in respect of a water body, known as 'Palle Cheruvu' of Laxmiguda village, Rajendranagar Mandal. W.P.No.8516 of 2006 is filed by 9 pattedars of land, which constituted the Water Body, claiming the relief that the Municipality is not entitled to grant lease, alleging that the tank is in their patta lands, and that the Municipality does not have any right to grant lease of fishing rights to any one, including the local Fishermen Cooperative Society.

W.P.No.18141 of 2006 is filed by the Fishermen Cooperative Society, Kandikal village of Bandlaguda Mandal, Hyderabad District, with a prayer to direct the Rajendranagar Municipality and the Assistant Commissioner of Fisheries, to grant lease of fishing rights in

the said tank.

The petitioners in W.P.No.8516 of 2006 contend that their ancestors have purchased the land in Survey Nos.103/17, 140, 141, 142, 145 to 150 of Bandlaguda village, and Survey Nos.95 and 120 of Laxmiguda village of Rajendranagar Mandal, several decades ago. It is stated that on a part of the land, a pond exists, which is utilized for irrigating the rest of the lands, and if the tank is not filled with water, that part of the land is also used for agriculture. According to them, neither the Municipality, nor the Fisheries Department, have any right to grant lease, in respect of any tanks over the private lands.

Petitioner in W.P.No.18141 of 2006, the Fishermen Cooperative Society, contends that for the last several decades, the members of the society have been enjoying the rights of fishing in the tank, and there is no basis for the Municipality in not granting lease for subsequent years.

Heard Sri Vedula Srinvias, learned counsel for the petitioners in W.P.No.8516 of 2006, Sri K.Raghuveer Reddy, learned counsel for the petitioner in W.P.No.18141 of 2006,
Sri Polisetti Radhakrishna, learned Standing Counsel for the Municipality, and learned Government Pleader for Fisheries.

The Government issued orders in G.O.Ms.No.63, Animal Husbandry and Fisheries (Fish II) Department, dated 7.6.1999, creating almost a semblance of monopoly, in favour of the Fishermen Cooperative Society, in the matter of grant of leases of fishing rights in the irrigation tanks. The Government of Andhra Pradesh issued orders, from time to time, conferring rights upon the Fishermen Cooperative Societies, to grant lease of fishing rights in the irrigation tanks. In G.O.Ms.No.63, dated 7.6.1999, it was directed that the Water Users Association of the concerned Water Bodies, do not have any

right, in the matter of granting leases, except that the resultant amount shall be remitted to their account. Nowhere in its orders, the Government had dealt with the tanks, which are situated on private lands, or owned by private individuals. In the whole gamut of the rules, relating to grant of leases, there exist only two categories of tanks, that is, those which vest in the Irrigation Department, and those that are vested in the Gram Panchayats. Private tanks have never been the subject matter of the regime of grant of leases of fishing rights.

In the instant case, the petitioners in W.P.No.8516 of 2006 assert that the tank in question is situated on their patta lands. Extensive correspondence ensued in this regard, among the pattedars, the Municipality and the Fisheries Department. On a representation made by the pattedars, the Commissioner, Rajendranagar Municipality, had undertaken detailed examination of the matter, and sent a reply, through letter dated 4.4.2006. Apart from the correspondence with the Fisheries Department, the Commissioner had addressed a letter to the Mandal Revenue Officer, Rajendranagar, also. The latter informed the Commissioner through letter, dated 30.8.2003 as under:

> "On verification of the revenue records, it is found that the entire tank bed area of Palle Cheruvu of Laxmiguda village belongs to the patta lands of pattedars. Out of the total tank bed area, 3/4th area was fallen under Bandlaguda Mandal and 1/4th comes under Rajendranagar Mandal. The said lands are patta lands".

Despite this clarification, the Commissioner granted lease in favour of the Fishermen Cooperative Society, only on the basis of an opinion rendered by their Standing Counsel.

When the record clearly discloses that the tank is on patta lands, the question of granting any lease to the Fishermen Cooperative Society, does not arise.

Therefore, W.P.No.8516 of 2006 is allowed and W.P.No.18146 of 2006 is dismissed. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

Dt: 23rd August 2007.
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